IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.6422 of 2006

DATE OF DECISION: 01.12.2006

National Agricultural Cooperative Marketing
Federation of India Limited.

...Petitioner.

Versus

Sh.D.N.Gupta

...Respondent.

CORAM: HON'BLE MR. JUSTICE S.S.SARON.

PRESENT: Mr.C.M.Makkar, Advocate
for the petitioner.

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S.S.SARON, J.

This revision petition has been filed against the order dated 16.09.2006 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Chandigarh whereby the plaintiff has been allowed to amend his plaint.

The plaintiff-respondent originally filed the suit when the departmental inquiry proceedings were pending against him. During the pendency of the suit, the inquiry proceedings were finalised and an order affecting his rights was passed. The plaintiff-respondent in order to challenge the said order affecting his civil rights filed an application under Order 6 Rule 17 of the Code of Civil Procedure (for short “CPC”) which has been allowed by the learned trial court. It was observed that the plaintiff-respondent cannot be burdened for filing a fresh suit in the facts and circumstances which have occurred during the pendency of the case. It was further observed that the technicalities which have been pointed

out cannot stand as impediment if the applicant had not categorically mentioned as to what paras are going to be incorporated in the amended plaint, as the amended plaint was appended with the application seeking amendment of the plaint.

Learned counsel appearing for the petitioner submits that the plaintiff-respondent in terms of the provisions of Order 6 Rule 17(2) CPC as amended by High Court Notification dated 12.11.1951/07.12.1951 was required to indicate specifically the words or paragraphs to be added, omitted or substituted in the original pleadings. The plaintiff-respondent having not done so, the order allowing the amendment of the plaint is bad. Reliance is placed on the case of **Gurdial Singh versus Raj Kumar Aneja AIR 2002 SC 1003** wherein the practice of permitting changes to be made/incorporated in the original pleadings by way of amendment not being highlighted or underlined in red has been deprecated.

I have given my thoughtful consideration to the matter. In terms of the provisions of Order 6 Rule 17(2) CPC as amended in Punjab, Haryana and Chandigarh vide Notification dated 12.11.1951/07.12.1951, every application seeking amendment of pleadings is required to be in writing and the applicant is to state the specific amendments which are sought to be made indicating the words or paragraphs to be added, omitted or substituted in the original pleadings. However, the same admittedly is a rule of procedure. Procedural provisions are conceived for the advancement of the cause of justice. The violation of any and every procedural provision does not automatically vitiate the order that has been passed against a party. It is required to be shown whether the order that has been passed against a party to the suit has prejudiced its rights. If it is found that the rights of a party against whom the order is passed are prejudiced, appropriate orders would have to be made to repair and remedy the prejudice including setting aside of the order. If no prejudice is

established to have resulted therefrom, no interference is called for in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. Therefore, even though it is the requirement of indicating the specific amendments to be carried out by a party seeking amendment of its pleadings but no prejudice has been shown to have been caused to the defendant-petitioner by their learned counsel. In fact, it is not even pleaded in the petition as to whether any prejudice has been caused. Only general averments have been made in the petition that the interest of the petitioner shall be harmed enormously as the respondent has modified the facts of the entire case. No plea much less specific plea of any prejudice being caused to the petitioner has been made or even shown. Besides, it may be noticed that the present petition is filed under Article 227 of the Constitution of India. The jurisdiction in respect of which is limited. In **Ouseph Mathai and Others versus M.Abdul Khadir (2002) 1 SCC 319,** it was held as follows:-

> *"Article 227 confers a right of superintendence over all courts and tribunals throughout the territories in relation to which the High Court exercises the jurisdiction but no corresponding right is conferred upon a litigant to invoke the jurisdiction under the said article as a matter of right. In fact power under this article casts a duty upon the High Court to keep the inferior courts and tribunals within the limits of their authority and that they do not cross the limits, ensuring the performance of duties by such courts and tribunals in accordance with law conferring powers within the ambit of the enactments creating such courts and tribunals. Only wrong decisions may not be a ground for the exercise of jurisdiction under this article unless the wrong is referable to grave dereliction of duty and flagrant abuse of power by the subordinate courts and tribunals resulting in grave injustice to any party".*

Keeping in view the observations and also the fact that no grave injustice is shown to have been caused to the petitioner with the amendment being allowed, no ground for interference is made out.

Consequently, the revision petition is dismissed.

December 01, 2006 (S.S. SARON)
seema JUDGE